



## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0103]

#### Commercial Driver's License Standards: Stevens Transport, Inc.; Application for Exemption

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition; grant of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant the exemption application from Stevens Transport, Inc. (Stevens). Stevens sought an exemption from the requirement that a commercial learner's permit (CLP) holder be accompanied by a commercial driver's license (CDL) holder with the proper CDL class and endorsements seated in the front seat of the vehicle while the CLP holder performs behind-the-wheel training on public roads or highways. The exemption allows a CLP holder who has passed the skills test but not yet received the CDL document to drive a Stevens commercial motor vehicle (CMV) accompanied by a CDL holder who is not necessarily in the passenger seat, provided the driver has documentation of passing the skills test. FMCSA has analyzed the exemption application and public comments and determined that the exemption, subject to the terms and conditions imposed, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

**DATES:** The exemption is effective from [INSERT PUBLICATION DATE OF FEDERAL REGISTER NOTICE through INSERT DATE FIVE YEARS AFTER PUBLICATION DATE OF FEDERAL REGISTER NOTICE].

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety

Standards; (202) 366-2722; richard.clemente@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services at (202) 366-9826.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation**

#### **Viewing Comments and Documents**

To view comments, go to [www.regulations.gov](http://www.regulations.gov), insert the docket number “FMCSA-2022-0103” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “View Related Comments.”

To view documents mentioned in this notice as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov), insert the docket number “FMCSA-2022-0103” in the keyword box, click “Search,” and chose the document to review.

If you do not have access to the internet, you may view the docket by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

### **II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the *Federal Register* (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety

equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the *Federal Register* (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### **III. Background**

#### *Current Regulatory Requirements*

FMCSA's CDL regulations in 49 CFR 383.25 prescribe minimum conditions for behind-the-wheel training of a CLP holder. Section 383.25(a)(1) requires that a CLP holder at all times be accompanied by a CDL holder with the proper CDL class and endorsements. The CDL holder must be seated in the front seat of the CMV while the CLP holder performs behind-the-wheel training on public roads or highways.

#### *Applicant's Request*

Stevens requests an exemption from 49 CFR 383.25(a)(1) to allow CLP holders who have passed a CDL skills test, and are thus eligible to receive a CDL, to drive a CMV without a CDL holder always present in the front passenger seat. Stevens states that it recruits and develops driver candidates through the Stevens Driving Academy and several affiliated commercial driving schools that provide CDL training in a number of States, including Colorado, Louisiana, Georgia, Florida, and Tennessee. Stevens graduates approximately 3,150 new drivers each year.

Stevens asserts that without the exemption, it must choose either to wait for drivers to obtain the CDL credential from their home State before starting on-duty freight operations or to send the drivers home in an unproductive non-driving capacity. The result, according to Stevens, is supply chain inefficiency and a lost employment

opportunity for a new driver. In addition, Stevens explains that States may take weeks to properly document and update the status of a new driver's license. This administrative waiting period has caused a significant burden on Stevens's operations.

#### **IV. Method to Ensure an Equivalent or Greater Level of Safety**

Stevens indicates that the exemption will result in a level of safety that is greater than the level of safety without the exemption. Stevens states that the only difference between a CLP holder who has passed the CDL skills test and a CDL holder is that the latter has obtained a hard copy of the CDL document from the home State's Department of Motor Vehicles (DMV). The practical result of the exemption is that CLP holders who have passed a CDL skills test are able to begin immediate and productive on-the-job training. According to Stevens, this will allow them to hone their recently acquired driving skill set and put them to work as a productive employee, as opposed to waiting for the CDL document. Stevens states that it will maintain proper, up-to-date records for all drivers in possession of a CLP who have passed the CDL skills test. A copy of Stevens' application for exemption is available for review in the docket for this notice.

#### **V. Public Comments**

On June 14, 2022, FMCSA published notice of the Stevens application and requested public comment [87 FR 36034]. The Agency received four comments. The Owner-Operator Independent Driver's Association (OOIDA) opposed the exemption request, as OOIDA believes that Stevens failed to prove that a waiver would result in "a level of safety equivalent to, or greater than, the level that would be achieved by the regulation." OOIDA commented that Stevens demonstrated only a desire to increase its productivity and profit at the risk of highway safety. OOIDA also commented that: 1) far too many new drivers are entering the trucking industry and driving on the nation's roads without the basic skills to safely operate a commercial vehicle and section 383.25(a)(1) is designed to properly ensure that inexperienced drivers will have sufficient training,

instruction, and oversight as they learn the job; 2) Stevens's exemption request fails to explain how the CLP holder will be adequately mentored if the CDL holder is not in the passenger seat; and 3) the regulations requiring an experienced driver in the front seat with a permit holder were implemented with safety in mind, and FMCSA must continue bolstering training requirements in support of the Entry-Level Driver Training rule.

Three other individual commenters also opposed the exemption request. One commenter stated that too many "mega" carriers put inexperienced, unqualified drivers on the road, while another commented that the risk of having an inexperienced driver behind the wheel without supervision is counterproductive to safety.

## **VI. FMCSA Safety Analysis and Decision**

FMCSA has evaluated Stevens' application for exemption and the public comments and believes Stevens will achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. The premise of comments opposing the exemption is that CLP holders lack experience and are safer drivers when observed by a CDL driver trainer who is on duty and in the front seat of the vehicle. However, CLP holders who have passed the CDL skills test are eligible to obtain a CDL without further training. If these CLP holders had obtained their training and CLPs in their State of domicile, they could immediately obtain their CDL at the State driver licensing agency and begin driving a CMV without any on-board supervision. Because these drivers have passed the CDL skills test, the only thing necessary to obtain the CDL is to visit the DMV office in their State of domicile.

In addition, FMCSA has already granted this same exemption request—and in some instances, five-year renewals—for the following five other motor carriers: CRST Expedited, C.R. England, Inc., New Prime, Inc., Werner Enterprises, and Wilson Logistics [83 FR 53149; 87 FR 36360; 87 FR 38449; 87 FR 18855; 86 FR 11050].

The requested exemption is restricted to Stevens' CLP holders who have documentation that they have passed the CDL skills test. The exemption will enable these drivers to operate a CMV as a team driver without requiring the accompanying CDL holder be on duty and in the front seat while the vehicle is moving.

### **Terms and Conditions of the Exemption**

When operating under this exemption, Stevens and its drivers are subject to the following terms and conditions:

- (1) Stevens and its drivers must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR parts 350–399);
- (2) The drivers must be in possession of a valid State driver's license, CLP with the required endorsements, and documentation that they have passed the CDL skills test;
- (3) The drivers must not be subject to any out-of-service (OOS) order or suspension of driving privileges; and
- (4) The drivers must be able to provide this exemption document to enforcement officials.

### **Preemption**

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

### **Notification to FMCSA**

Stevens must notify FMCSA within 5 business days of any crash (as defined in 49 CFR 390.5) involving any of its CMVs operating under the terms of this exemption. The notification must include the following information:

- (a) Name of the exemption: "Stevens";

- (b) Date of the accident;
- (c) City or town, and State, in which the accident occurred, or closest to the accident scene;
- (d) Driver's name and license number;
- (e) Vehicle number and State license number;
- (f) Number of individuals suffering physical injury;
- (g) Number of fatalities;
- (h) The police-reported cause of the accident;
- (i) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and
- (j) The driver's total driving time and total on-duty time prior to the accident.

Reports filed under this provision shall be emailed to [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

### **Termination**

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. The exemption will be rescinded if: (1) Stevens and its drivers operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

**Robin Hutcheson,**

*Administrator.*

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